IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929

WP(C).No. 15515 of 2007(V)

PETITIONER:

T.A.ABDUL AZEEZ, SUB ENGINEER,
220 K.V. SUBSTATION, KALAMASSERY,
THURUTHEL HOUSE, KUSUMAGIRI, KOCHI-30.

BY ADV. SRI.P.V.JAYACHANDRAN.

RESPONDENTS:
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1. **THE CHIEF ENGINEER, HRM,**
   KERALA STATE ELECTRICITY BOARD,
   THIRUVANANTHAPURAM.

2. **THE EXECUTIVE ENGINEER,**
   ELECTRICAL DIVISION,
   KERALA STATE ELECTRICITY BOARD,
   TRIPUNITHURA, ERNAKULAM.

BY ADV. SRI. K.S. ANIL, SC, KSEB.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28/05/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 15515 OF 2007-V

JUDGMENT

The petitioner is a Sub Engineer. According to him, his turn for promotion as Assistant Engineer (Electrical) has arisen. But, he is not being considered for promotion, though his juniors are already promoted. Therefore, he has preferred Ext.P3 representation, claiming promotion as Assistant Engineer (Electrical). But, the said representation has been rejected by Ext.P4 order. The relevant portion of the said order reads as follows:

> "The petitioner while working as Sub Engineer, Electrical Section, Thevakkal was suspended from service with effect from 26.12.2002 vide Order No.GB.41/2002-03/2659 dated 26.12.2002 of the Executive Engineer, Electrical Division, Tripunithura consequent to his arrest by Vigilance and Anti Corruption Bureau on 24.12.2002 under Section 7 & 13(1)(d) r/w 13(2) of PC Act 1988, while accepting bribe of Rs.2500/-. Crime case No.VC.7/2002 has been charged against him. Government vide its letter No.8718/A2/04/PD dated 21.06.2004 requested to reinstate the petitioner Sri.T.A.Abdul Azeez, Sub Engineer (under suspension) into service on condition that he may be posted in a non sensitive post without prejudice to the vigilance case pending against him. Accordingly, he was reinstated in service vide Order No. EB VS.2/15/03 dated 16.07.2004 of Chief Engineer (HRM) without prejudice to the vigilance case pending against him and posted in a non sensitive post as

directed by the Government. The case is yet to be finalised.

> In this circumstances, K.S.E. Board feels that it would not be now appropriate to promote the petitioner to a vital post of Assistant Engineer (on Officer cadre). Hence the request of the petitioner to grant him due promotion to the post of Assistant Engineer (Ele.) with restoration of his seniority cannot be considered and hence declined."

This writ petition is filed, challenging the above order and also seeking a direction to the K.S.E.B to promote him.

2. Heard the learned standing counsel for the K.S.E.B also. If the Electricity Board feels that a person like the petitioner, who is facing prosecution for the offences under the Prevention of Corruption Act, 1988 cannot be promoted to the post of Assistant Engineer (Ele.), which is a vital post in the officer cadre under the K.S.E.B., I think the same cannot be said to be perverse or irrational. If, ultimately, the petitioner is cleared by the criminal court, of course, he can move the K.S.E.B for promotion with retrospective effect. Therefore, I find no reason to interfere with Ext.P4 and accordingly the writ petition is dismissed.

28th May, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/